

House File 615 - Introduced

HOUSE FILE 615

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 494)

(SUCCESSOR TO HSB 150)

A BILL FOR

1 An Act relating to financial crime enforcement by assessing
2 a drug paraphernalia surcharge, creating a money transfer
3 service fee and related fund and income tax credit, and
4 including retroactive applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **80.32 Financial crime and wire**
2 **transmitter fund.**

3 1. A financial crime and wire transmitter fund is
4 established in the office of the treasurer of state under the
5 control of the department. Any moneys annually appropriated,
6 granted, or credited to the fund, including any federal moneys,
7 are appropriated to the department for investigating indictable
8 criminal offenses committed for financial gain.

9 2. Notwithstanding section 12C.7, subsection 2, interest
10 and earnings on moneys deposited in the fund shall be credited
11 to the fund. Notwithstanding section 8.33, moneys remaining
12 in the fund at the end of the fiscal year shall not revert to
13 any other fund but shall remain available to be used for the
14 purposes specified in this section.

15 3. For the fiscal year beginning July 1, 2017, and for
16 each fiscal year thereafter, the department shall transfer
17 from the fund to the general fund of the state, the lesser of
18 the amount of fees credited to the fund for the fiscal year
19 pursuant to section 533C.104 or an amount of money equal to the
20 money transfer service tax credits claimed pursuant to section
21 422.10C in that fiscal year, if any. The moneys transferred
22 to the general fund of the state in accordance with this
23 subsection shall not be considered new revenues for purposes
24 of the state general fund expenditure limitation under section
25 8.54 but instead as replacement of a like amount included in
26 the expenditure limitation for the fiscal year in which the
27 transfer is made.

28 Sec. 2. NEW SECTION. **422.10C Money transfer service fee tax**
29 **credit.**

30 1. The taxes imposed under this division, less the credits
31 allowed under section 422.12, shall be reduced by a money
32 transfer service fee tax credit equal to the amount of money
33 transfer service fees under section 533C.104 paid by the
34 taxpayer during the tax year.

35 2. A credit shall not be allowed under this section to

1 an individual who does not include on the tax return for the
 2 taxable year such individual's valid taxpayer identification
 3 number and, if the individual is married, the valid taxpayer
 4 identification number of such individual's spouse. For
 5 purposes of this subsection, "*taxpayer identification number*"
 6 means the same as defined in section 32 of the Internal Revenue
 7 Code.

8 3. Any credit in excess of the tax liability is refundable.
 9 In lieu of claiming a refund, the taxpayer may elect to have
 10 the overpayment shown on the taxpayer's final, completed return
 11 credited to the tax liability for the following tax year.

12 Sec. 3. NEW SECTION. 533C.104 **Money transfer service fee —**
 13 **licensee requirements — enforcement.**

14 1. For purposes of this section, unless the context
 15 otherwise requires:

16 a. "*Department*" means the department of revenue.

17 b. "*Director*" means the director of revenue.

18 c. "*Money transfer service*" means the transmission of
 19 money by any means including transmission within this country
 20 or to or from locations abroad by payment instrument, wire,
 21 facsimile, or electronic transfer, courier, or otherwise.

22 2. a. A licensee and the authorized delegates of a licensee
 23 shall collect from customers a money transfer service fee equal
 24 to one percent of the amount of each money transfer service
 25 transaction.

26 b. Money transfer service fees shall be paid over to the
 27 department by licensees and their authorized delegates who
 28 furnish money transfer services.

29 c. The department, in consultation with the superintendent,
 30 shall administer and enforce the money transfer service fee as
 31 nearly as possible in conjunction with the administration and
 32 enforcement of the state sales and use tax law, except that
 33 portion of the law which implements the streamlined sales and
 34 use tax agreement.

35 d. The director may require licensees and their authorized

1 delegates to register with the department for purposes of this
2 section. The director may also require a permit applicable
3 only to this section for any licensee or the authorized
4 delegate of a licensee not collecting taxes under chapter 423.

5 e. All powers and requirements of the director to administer
6 the state sales and use tax law are applicable to the
7 administration of the money transfer service fee, including but
8 not limited to the provisions of section 422.25, subsection 4,
9 sections 422.30, 422.67, and 422.68, section 422.69, subsection
10 1, sections 422.70 through 422.75, section 423.14, subsection
11 1 and subsection 2, paragraphs "b" through "e", and sections
12 423.15, 423.23, 423.24, 423.25, 423.31 through 423.35, 423.37
13 through 423.42, 423.46, and 423.47.

14 f. Failure by a licensee or a licensee's authorized
15 delegate to collect and remit money transfer service fees
16 or to comply with any other provision of this section shall
17 subject the licensee and the authorized delegates of a licensee
18 to the enforcement provisions of article 7 of this chapter.
19 The director and the department shall cooperate with the
20 superintendent in identifying violations of this section and in
21 discharging the superintendent's enforcement responsibilities
22 under article 7 of this chapter.

23 g. All money transfer service fees collected under this
24 section shall be deposited in a separate account in the
25 financial crime and wire transmitter fund established by
26 section 80.32.

27 3. A licensee and the authorized delegates of a licensee
28 furnishing money transfer services shall post a notice in the
29 form and manner prescribed by the superintendent that notifies
30 customers that upon filing an individual income tax return with
31 a valid taxpayer identification number, the customer shall be
32 entitled to an individual income tax credit equal to the amount
33 of money transfer service fees paid by the customer during the
34 tax year.

35 4. A money transfer service fee shall not be applied to any

1 of the following:

2 *a.* A transaction between an individual and a business
3 registered with the secretary of state of Iowa or another
4 state in the United States, or between an individual and a
5 utility company authorized to do business in this state, which
6 is conducted through a bill payment system and for which the
7 money being transferred is for a good or service not otherwise
8 prohibited by state or federal law for a traceable debt.

9 *b.* An internet or telephone transfer conducted through a
10 debit card or credit card, or transfer by automated clearing
11 house.

12 *c.* The sale or servicing of a prepaid debit card or a
13 stored-value card.

14 *d.* The sale of a money order.

15 *e.* A check cashing transaction or a delayed deposit
16 transaction.

17 *f.* Any of the following:

18 (1) The United States or a department, agency, or
19 instrumentality thereof.

20 (2) A money transmission by the United States postal service
21 or by a contractor on behalf of the United States postal
22 service.

23 (3) A state, county, city, or any other governmental agency
24 or governmental subdivision of a state.

25 (4) The following entities whether chartered or organized
26 under the laws of a state or of the United States: a bank, bank
27 holding company, savings and loan association, savings bank,
28 credit union, office of an international banking corporation,
29 branch of a foreign bank, corporation organized pursuant to the
30 federal Bank Service Company Act, 12 U.S.C. §1861 - 1867, or
31 corporation organized under the federal Edge Act, 12 U.S.C.
32 §611 - 633.

33 (5) An electronic funds transfer of governmental benefits
34 for a federal, state, county, or governmental agency by a
35 contractor on behalf of the United States or a department,

1 agency, or instrumentality thereof, or a state or governmental
2 subdivision, agency, or instrumentality thereof.

3 (6) A board of trade designated as a contract market under
4 the federal Commodity Exchange Act, 7 U.S.C. §1 - 25, or a
5 person who, in the ordinary course of business, provides
6 clearance and settlement services for a board of trade to the
7 extent of its operation as or for such a board.

8 (7) A registered futures commission merchant under the
9 federal commodities laws to the extent of its operation as such
10 a merchant.

11 (8) A person who provides clearance or settlement services
12 pursuant to a registration as a clearing agency or an exemption
13 from such registration granted under the federal securities
14 laws to the extent of its operation as such a provider.

15 (9) An operator of a payment system to the extent that
16 the operator provides processing, clearing, or settlement
17 services, between or among persons excluded by this subsection,
18 in connection with wire transfers, credit card transactions,
19 debit card transactions, stored-value transactions, automated
20 clearing house transfers, or similar funds transfers.

21 (10) A person registered as a securities broker-dealer
22 under federal or state securities laws to the extent of the
23 person's operation as such a broker-dealer.

24 Sec. 4. Section 602.8102, subsection 135A, Code 2017, is
25 amended to read as follows:

26 135A. Assess the surcharges provided by [sections 911.1,](#)
27 [911.2, 911.2A, 911.2B, 911.2C, 911.3, and 911.4,](#) and [911.5.](#)

28 Sec. 5. Section 602.8108, Code 2017, is amended by adding
29 the following new subsection:

30 NEW SUBSECTION. 13. The clerk of the district court shall
31 remit all moneys collected from the assessment of the drug
32 paraphernalia surcharge provided in section 911.5 to the state
33 court administrator for deposit in the financial crime and wire
34 transmitter fund established in section 80.32.

35 Sec. 6. NEW SECTION. 911.5 Drug paraphernalia surcharge.

1 1. In addition to any other surcharge, the clerk of the
2 district court shall assess a drug paraphernalia surcharge of
3 five dollars if an adjudication of guilt or a deferred judgment
4 has been entered for a criminal violation of section 124.414 or
5 a similar city or county ordinance.

6 2. The surcharge shall be remitted by the clerk of court as
7 provided in section 602.8108, subsection 13.

8 Sec. 7. RETROACTIVE APPLICABILITY. The following provision
9 or provisions of this Act apply retroactively to January 1,
10 2017, for tax years beginning on or after that date:

11 1. The section of this division enacting section 422.10C.

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill relates to financial crime enforcement by
16 assessing a drug paraphernalia surcharge and creating a money
17 transfer service fee and related fund and income tax credit.

18 DRUG PARAPHERNALIA SURCHARGE. The bill provides that the
19 clerk of the district court shall assess a drug paraphernalia
20 surcharge of five dollars if an adjudication of guilt or
21 a deferred judgment has been entered for possessing drug
22 paraphernalia in violation of Code section 124.414 or a similar
23 city or county ordinance. The bill specifies that the clerk of
24 the district court shall remit all moneys collected from the
25 assessment of the surcharge to the state court administrator
26 for deposit in the financial crime and wire transmitter fund
27 established by the bill.

28 MONEY TRANSFER SERVICE FEE AND RELATED FUND AND TAX CREDIT.
29 The bill requires a licensee under Code chapter 533C, the
30 uniform money services Act, to collect from customers a money
31 transfer service fee equal to 1 percent of the amount of each
32 money transfer service transaction. The bill defines "money
33 transfer service" as the transmission of money by any means
34 including transmission within this country or to or from
35 locations abroad by payment instrument, wire, facsimile, or

1 electronic transfer, courier, or otherwise.

2 The bill requires such licensees to pay such fees over to the
3 department of revenue. The bill requires the department, in
4 consultation with the superintendent of banking, to administer
5 and enforce the money transfer service fee as nearly as
6 possible in conjunction with the administration and enforcement
7 of the state sales and use tax law, except that portion of
8 the law which implements the streamlined sales and use tax
9 agreement.

10 The bill permits the director of revenue to require
11 licensees to register with the department for purposes of
12 the bill. The bill permits the director to require a permit
13 applicable only to the bill for any licensee not collecting
14 taxes under Code chapter 423. The bill provides that all
15 powers and requirements of the director to administer the state
16 sales and use tax law are applicable to the administration of
17 the money transfer service fee.

18 Failure by a licensee to collect and remit money transfer
19 service fees or to comply with any other provision of the bill
20 shall subject the licensee to the enforcement provisions of
21 article 7 of Code chapter 533C. The bill requires the director
22 and the department to cooperate with the superintendent in
23 identifying violations of the bill and in discharging the
24 superintendent's enforcement responsibilities under article 7
25 of Code chapter 533C.

26 Penalties provided for in article 7 of Code chapter 533C
27 include suspension and revocation of a license under Code
28 chapter 533C, civil penalties, and criminal penalties that
29 include class "C" and "D" felonies and aggravated and simple
30 misdemeanors. A class "C" felony is punishable by confinement
31 for no more than 10 years and a fine of at least \$1,000 but
32 not more than \$10,000. A class "D" felony is punishable by
33 confinement for no more than five years and a fine of at least
34 \$750 but not more than \$7,500. An aggravated misdemeanor
35 is punishable by confinement for no more than two years and

1 a fine of at least \$625 but not more than \$6,250. A simple
2 misdemeanor is punishable by confinement for no more than 30
3 days or a fine of at least \$65 but not more than \$625 or by
4 both.

5 The bill provides that all money transfer service fees
6 collected under the bill shall be deposited in the financial
7 crime and wire transmitter fund established by the bill.

8 The money transfer service fee does not apply to numerous
9 types of transactions including but not limited to a sale
10 between an individual and any business registered in the United
11 States, an internet or telephone transfer, the sale of a
12 prepaid debit card or stored-value card, or a check cashing or
13 delayed deposit transaction.

14 The money transfer service fee also does not apply to
15 numerous types of entities including but not limited to the
16 United States government, any state or local government, a
17 money transmission by the United States postal service, an
18 operator of a credit or debit payment system, or a commodity
19 or security trader.

20 The bill requires a licensee furnishing money transfer
21 services to post a notice in the form and manner prescribed
22 by the superintendent that notifies customers that upon
23 filing an individual income tax return with a valid taxpayer
24 identification number, the customer shall be entitled to an
25 individual income tax credit equal to the amount of money
26 transfer service fees paid by the customer during the tax year.

27 The bill also applies to authorized delegates of a licensee
28 under Code chapter 533C.

29 The bill provides an individual income tax credit equal to
30 the amount of money transfer service fees paid by the taxpayer
31 during the tax year. The bill provides that the credit shall
32 not be allowed to an individual who does not include on the tax
33 return for the taxable year the individual's valid taxpayer
34 identification number and that of the individual's spouse if
35 applicable. The bill provides that the credit is refundable

1 and may be credited to the individual's tax liability for the
2 following tax year. The provision enacting the tax credit
3 applies retroactively to January 1, 2017, for tax years
4 beginning on or after that date.

5 The bill establishes a financial crime and wire transmitter
6 fund in the office of the treasurer of state under the control
7 of the department of public safety. Any moneys annually
8 appropriated, granted, or credited to the fund, including any
9 federal moneys, are appropriated to the department of public
10 safety for the purpose of investigating indictable criminal
11 offenses committed for financial gain. Interest and earnings
12 on moneys deposited in the fund shall be credited to the fund
13 and moneys remaining in the fund at the end of the fiscal year
14 shall not revert.

15 The bill requires the department of public safety, for
16 the fiscal year beginning July 1, 2017, and for each fiscal
17 year thereafter, to transfer from the fund to the general
18 fund of the state, the lesser of the amount of money transfer
19 service fees collected or an amount of money equal to the money
20 transfer service tax credits claimed in that fiscal year, if
21 any. The bill provides that the moneys transferred to the
22 general fund of the state in accordance with the bill shall not
23 be considered new revenues for purposes of the state general
24 fund expenditure limitation under Code section 8.54 but instead
25 as replacement of a like amount included in the expenditure
26 limitation for the fiscal year in which the transfer is made.